

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2378 OF 2005

Sarita Sandip Patil & Ors. : Petitioners
V/s.

Gram Panchayat Asurle & Ors. : Respondents

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Mr.R.D.Patni for the petitioners.

Mr.P.D.Dalvi for the respondent nos.1 and 2.

Mr.D.A.Patil, Asstt. Govt. Pleader, for the respondent
nos.6 and 7.

Mr.R.V.More for the respondent no.8.

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CORAM : S.A. BOBDE, J.

July 6, 2005.

P.C.:

1. Rule, returnable forthwith.

The learned counsel appearing for the respective
respondents waive service of rule.

Head by consent.

2. The petitioners have challenged the order of the
Divisional Commissioner, Pune Division, declining to
dissolve the Gram Panchayat of Asurle, taluka Panhala,
Dist. Kolhapur. The petitioners contended that since

five out of nine members of the Gram Panchayat have admittedly resigned, the learned Divisional Commissioner was bound to dissolve the Gram Panchayat in accordance with section 145(1-A) of the Bombay Village Panchayats Act, 1958. Section 145(1-A) reads as follows:-

"(1-A) If more than half the total number of seats in a Panchayat have become vacant, the State Government may, by order in the Official Gazette, dissolve such panchayat."

The said section has been held to be an enabling provision, the power under which can be exercised on behalf of the State Government. It is obvious, having regard to the provisions of the Act, that where a member resigns, the Collector may fill up the vacancies under section 43 of the Act. The learned Division Commissioner may be taken to be aware of those provisions. In view of the position in law and the observations that the resignations are brought about due to political rivalry, I see no reason to interfere with the order of the Divisional Commissioner.

3. The petition is hereby dismissed. The rule stands discharged.

Sd/-

S.A. BOBDE, J.